

**IN THE UNITED STATES DISTRICT COURT
FOR THE STATE OF NEW MEXICO**

UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

**STATE OF NEW MEXICO, *ex rel.*
State Engineer**

Plaintiff,

v.

RAMON ARAGON, *et al.*,

Defendants.

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Robert M. Marshall
69c07941 JEC-ACE

**RIO CHAMA STREAM SYSTEM
Rio Gallina, Section 5**

STATEMENT BY THE STATE OF NEW MEXICO

COMES NOW the plaintiff, State of New Mexico, *ex rel.*, State Engineer, by and through his attorneys, and in response to the Order (No. ⁶¹⁵⁴~~6113~~) directing counsel for the State of New Mexico to file a statement explaining the State's noncompliance with the May 8, 2000, Order Adopting Initial Procedures for the Adjudication of the Federal Non-Indian Claims in the Rio Gallina Section (No. 5896) the undersigned counsel states that the Order filed May 8, 2000, was agreed upon by counsel for the State of New Mexico ("State"), the United States, and counsel for various Acequia groups after two telephonic conferences to discuss the manner by which the State might address the United States' claims. Counsel for the State's understanding of the agreement reached during those discussions, and understanding of the subsequent procedural order filed with the Court on May 8, 2000, was that the State would undertake a field investigation of the United States' claims where necessary (with the participation of representatives from the Acequias), and provide a report to the parties on the results of that investigation.

The State completed its field investigation of the United States' claims in October of 2000 as

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required, and on or about October 16, 2000, provided a report to the United States concerning the State's disagreement with numerous factual or technical aspects concerning the stock watering and wildlife watering claims submitted by the United States. This report was not intended to represent a comprehensive response to the United States concerning its claims, nor was it intended to take a specific legal position with respect to whether or not the State would accept or reject any particular claim.

Counsel believes this report was in compliance with both the understanding of the above mentioned counsel, and the procedural order filed with the Court. It was the understanding of Counsel for the State that this procedure would allow the State and the United States to move forward with respect to the United States' claims, and to attempt to resolve any disputed factual issues prior to development of the State's legal position with regard to those claims. For these reasons, the State respectfully suggests that there has been no noncompliance with the procedural order filed May 8, 2000.

Dated: February 12, 2001

Respectfully submitted,



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CERTIFICATE OF SERVICE

I certify that the foregoing Statement by the State of New Mexico was mailed to the following persons on February 12, 2001.



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